CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 16, 2002

H.R. 3947

Federal Property Asset Management Reform Act of 2002

As ordered reported by the House Committee on Government Reform on March 20, 2002

SUMMARY

H.R. 3947 would give most federal landholding agencies new authorities for acquiring, improving, and disposing of property and would provide incentives for agencies to use these authorities. The bill would authorize agencies to enter into partnerships and other business arrangements with private firms and other organizations to improve the government's real and related personal property. Under the bill, agencies would be allowed to retain and spend proceeds from the sale or lease of government property without further appropriation. Arrangements for the leaseback of federal property (an agreement to sell a federally owned property to a nonfederal entity and subsequently lease the property for federal use from the new owner under agreed terms) would be given an exemption from certain budget scorekeeping guidelines. Finally, the bill would impose various reporting and administrative requirements on several agencies.

CBO estimates that implementing H.R. 3947 would increase net direct spending by at least $1.5 billion over the 2003-2012 period. This estimate includes the cost of authorizing agencies to spend certain proceeds from property sales expected to be collected under current law, and to enter into business arrangements with private firms or other entities to improve, expand, or replace federal properties. Because enacting H.R. 3947 would increase direct spending, pay-as-you-go procedures would apply.

CBO expects that most of the direct spending that would be authorized by the bill would reduce the amount of appropriated funds needed to acquire, repair, or replace federal facilities, but we estimate that such savings would most likely occur after 2007. In addition, we estimate agencies would spend a total of $40 million over the 2003-2007 period to implement the bill, assuming appropriation of the necessary amounts. H.R. 3947 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3947 is shown in the following table. The costs of this legislation fall within all budget functions except 570 (Medicare), 650 (Social Security), and 900 (net interest).

	By Fiscal Year, in Millions of Dollars				
	2003	2004	2005	2006	2007
CHANGES IN DIRECT SPENDING [a]					
Spending of Receipts from Sale of Surplus Property					
Estimated Budget Authority	48	48	48	48	48
Estimated Outlays	48	48	48	48	48
Spending by Public-Private Partnerships	0	125	125	125	125
Estimated Budget Authority	0	42	83	125	125
Estimated Outlays					
Total Changes					
Estimated Budget Authority	48	173	173	173	173
Estimated Outlays	48	90	131	173	173
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [a]					
Estimated Authorization Level	17	8	5	5	5
Estimated Outlays	12	13	5	5	5

a. The direct spending under the bill would likely reduce the need for future appropriations to acquire, repair, or replace federal facilities, but CBO expects that such savings would most likely occur after 2007.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 3947 will be enacted by the end of 2002 and that the amounts necessary to implement the bill will be appropriated each year. We estimate that the General Services Administration (GSA) and other landholding agencies would need about one year to develop the policies and regulations for the new contractual arrangements that would be authorized under the bill. Hence, we estimate that many of the bill's provisions would not be fully implemented until fiscal year 2004.

Most (but not all) of the approximately 30 federal landholding agencies could use the expanded authorities that would be provided by H.R. 3947. According to GSA, the federal investment in land and facilities totals over $250 billion, and this bill would apply to the vast majority of that property. Agencies that administer Indian lands, the national park system, the national forest system, the national wildlife refuge system, and the Bureau of Land Management would be excluded from the bill's provisions. They would apply to the Departments of Defense (DoD), Energy (DOE) and Veterans Affairs (VA), as well as to GSA, the National Aeronautics and Space Administration (NASA), and other agencies.

The new authorities that H.R. 3947 contains would primarily affect the budget by increasing direct spending, as explained below.

Direct Spending

CBO estimates that three provisions of H.R. 3947 that would affect direct spending would have a net cost of at least $1.5 billion over the next 10 years. The bill would allow landholding agencies to spend proceeds from surplus property sales that currently cannot be spent unless appropriated by the Congress. H.R. 3947 also would allow landholding agencies to enter into public-private ventures with private firms (or other entities) to finance and manage real property improvement and replacement projects. Finally, the bill would give landholding agencies an incentive to sell or lease unused or underutilized federal property to obtain funds for necessary property or capital improvement projects.

Spending of Offsetting Receipts Expected Under Current Law. H.R. 3947 would amend the Federal Property and Administrative Services Act, which governs the disposition of most federal properties. That act, and other statutes that govern transactions of specific agencies and programs, generally require agencies to allocate excess property to other public purposes before offering it for sale. As a result, in most years, only a small portion of excess federal property is typically sold or leased for commercial use. In most cases, agencies are supposed to be paid in cash for such sales or leases, with net proceeds deposited in the Treasury as offsetting receipts. Under current law, proceeds from such transactions usually cannot be spent without further Congressional action.

CBO estimates that, under current law, offsetting receipts from sales of surplus property and leases administered by GSA and DoD will total about $50 million a year. Allowing agencies to spend such proceeds without further appropriation would result in a corresponding increase in direct spending. (However, under the bill roughly $2 million of the $50 million would be set aside for the Land and Water Conservation fund through 2007, and would not be available without further appropriation.) We estimate that allowing agencies to spend proceeds from sales of surplus property would increase direct spending by a total of about $500 million over the 2003-2012 period.

Public-private ventures. H.R. 3947 would authorize landholding agencies to enter into certain public-private business arrangements with private firms or other entities to acquire or improve federal properties. The government could contribute capital or equity, which could take the form of leases, sales, or exchanges of real property. These agreements could be for a period of up to 50 years and could give agencies the option to lease back facilities acquired, constructed, repaired, renovated, or rehabilitated by the public-private venture. The authority to enter into such agreements would expire in 10 years. The bill also would allow agencies to transfer title and interest in properties leased or renovated under a business arrangement to nonfederal entities if, during the term of the arrangement, the landholding agency determines that property is no longer needed.

CBO believes that the budget should reflect the full cost of government obligations at the time that any such obligations are incurred. While the contractual terms of public-private ventures may vary from project to project, CBO estimates that the arrangements authorized in H.R. 3947 would involve significant up-front budgetary costs that should be recorded when ventures are approved. Some (perhaps most) of those ventures would likely be subject to the lease-purchase rule set forth in the conference report to accompany the Balanced Budget Act of 1997. We estimate that the obligations and expenditures of the new public-private ventures would increase net direct spending by at least $1 billion over the 2004-2012 period. The budgetary treatment of these entities and some of their likely activities are discussed below.

Budgetary Treatment. CBO considers hybrid entities like the public-private business ventures authorized in H.R. 3947 as governmental. Hence, their activities should be recorded in the federal budget. The purpose of these entities would be to finance and manage the replacement, rehabilitation, or disposition of government property. This budgetary treatment is consistent with the recommendations of the President's 1967 Commission on Budget Concepts, which suggests that entities jointly capitalized with private and public assets be included in the federal budget until they are completely privately owned.

CBO would consider any funds borrowed by such public-private entities as new federal borrowing authority. The amount of borrowing authority may vary depending on the characteristics of the projects implemented under H.R. 3947. As noted above, CBO expects that most, if not all, public-private partnerships would be subject to the lease-purchase rule, which would require that the budget record up-front the net present value of the investments, additional interest costs, and applicable property taxes. There may be some cases in which the budget would only record spending from the borrowing of the venture up-front, with interest and other costs shown later as annual outlays.

Federal agencies' borrowing from the public is considered a means of financing federal spending and is not recorded in the budget as a receipt. Any amounts expended by these public-private business arrangements, however, should be recorded in the budget as budget authority and outlays. Any income to such ventures from nonfederal sources would be recorded in the budget as an offsetting receipt that could offset the venture's expenditures.

Activities of Public-Private Ventures. Under H.R. 3947, CBO expects that landholding agencies would enter into public-private ventures to finance various projects, including building repairs, upgrades, and constructing new facilities. GSA has identified dozens of potential candidates for such partnerships, including projects to renovate the headquarters buildings for the Department of Commerce, GSA, the Office of Personnel Management, and other agencies. A recent General Accounting Office (GAO) analysis of 10 of those projects identified eight that it considered viable; those eight projects would involve the expenditure of nearly $700 million. In addition to these known projects, other agencies such as NASA and DOE have proposed public-private ventures to build or rehabilitate facilities.

CBO estimates that federal borrowing by public-private partnerships would average about $125 million a year, beginning in 2004. This estimate excludes the potential for direct spending for the DoD's Military Housing Privatization Initiative (MHPI).[1] We expect that the mix of projects would vary each year. Spending in some years could be dominated by large GSA projects costing $100 million or more; spending in other years could involve several smaller projects at GSA and other agencies.

The budget also would record any cash proceeds collected by the ventures from the public. For this estimate, we expect that many projects—especially GSA projects involving buildings with near 100 percent government occupancy—would be leased back by federal agencies. In such cases, the annual payments from such agencies would be an intragovernmental transfer and would have no net budgetary impact. In contrast, any lease proceeds accruing to the venture from nonfederal entities would be recorded as offsetting collections and would reduce the net cost of the partnership over time. But assuming that projects take three or four years to complete, we estimate that amounts collected from nonfederal lessees would not be significant for several years.

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1. Under authority for its military housing privatization initiative, DoD is already authorized to enter into the types of public-private ventures that most agencies would be allowed to use by H.R. 3947. DoD's authority for this initiative is limited to projects valued at up to a total of $1 billion. CBO considers the Office of Management and Budget's (OMB's) accounting practices for MHPI projects to be at odds with government-wide standards for recording obligations and outlays in the budget. Because OMB has not treated certain MHPI transactions as either government borrowing for new construction or as a lease-purchase, CBO has excluded likely DoD costs for expanded use of this authority from the cost estimate for H.R. 3947.

   Estimated costs for this legislation could double if proper budgetary accounting for the expanded use of MHPI authorities were to be implemented by OMB. CBO plans to consult with the Committees on the Budget on how to score future legislation that involves DoD and the types of authorities that would be provided by H.R. 3947. Depending on the outcome of those consultations, CBO may, in the future, score similar legislation as authorizing direct spending for DoD, as we believe it does for other agencies.

Incentives for Increased Sales and Leases of Property. The bill would authorize landholding agencies to spend proceeds resulting from sales, leases, and partnerships involving real and personal property without further appropriation. Such proceeds could only be used for transaction costs (including environmental remediation) or expenditures on capital assets (including capital acquisitions, improvements, and dispositions). CBO expects that agencies would use the expanded leasing and sales authorities under the bill to obtain funds for capital improvements. While such transactions would have no net effect on direct spending over time, they could involve tens of millions of dollars annually.

We expect that enacting this bill would accelerate the pace of sales of surplus property and would lead to greater subleasing or leasing of underutilized property because of the bill's incentive of allowing agencies to spend proceeds from sales and leases. Examples of such opportunities may include:

- Leasing and sales of underutilized property by DoD, thus allowing it to generate funds in advance of the base realignment and closure effort that is planned for 2005.

- Sale or lease of VA hospitals that are not located where the needs are greatest. H.R. 3947 would allow VA to sell hospitals and clinics in areas where the relative needs are declining and use the receipts to purchase facilities in areas where service demands are rising.

- NASA could implement proposals to sell or lease underutilized properties in California, Florida, Maryland, Ohio, and Texas for use by private industry as research facilities, launch pads, and educational centers.

- According to DOE's Inspector General, the department currently has nonessential property that could be sold to generate revenue. In addition, the Inspector General has found that DOE currently leases more office space than it needs, creating an opportunity to sublet vacant space.

Spending Subject to Appropriation

Amounts spent on property improvements and replacements by the public-private business ventures authorized by H.R. 3947 could lead to a significant reduction in the need for appropriated funds to pay for such costs. Given the government's backlog of repair, alteration, and construction projects, however, CBO estimates that such savings are most likely to occur after 2007.

The bill includes several administrative and reporting requirements that we estimate would cost nearly $40 million over the 2003-2007 period to implement the bill, assuming appropriation of the necessary amounts. Components of this cost are summarized below.

Real Property Database. H.R. 3947 would direct GSA to create a single comprehensive database for government-wide real property. Currently, GSA produces a worldwide inventory of federal real property, but according to GAO reports, some of the data in the inventory system are inaccurate and incomplete. CBO estimates that improving the current database, as well as adding other agencies, would cost approximately $15 million.

Senior Real Property Officers. H.R. 3947 would direct each landholding agency to appoint a Senior Real Property Officer, who would be responsible for the monitoring of real property assets of the agency. For this estimate, we assume that some agencies would reassign employees while others would have to hire additional staff. We estimate that implementing this section would cost approximately $4 million per year, based on information from GSA.

Reports. Additional provisions of H.R. 3947 would affect discretionary spending at GAO, GSA, OMB, and landholding agencies because of the new requirements for reporting and oversight. Based on information from the GSA and GAO, CBO estimates these provisions would increase annual expenditures by $1 million annually beginning in fiscal year 2003.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	48	90	131	173	173	173	173	173	172	172
Changes in receipts	Not applicable										

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3947 contains no intergovernmental or private-sector mandates as defined in UMRA. Because the bill would provide federal agencies with additional tools for managing federal real and personal property, state and local planning agencies may experience higher demand for project reviews that are already authorized in current law. The amount of new activity would depend on how GSA designs and implements the asset management principles described in the bill. Based on information from state and local planning organizations, CBO estimates that the additional costs to state and local governments would not be significant.

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